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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JOSEPH PEREZ,

 Petitioner,

 v.

ATTORNEY GENERAL OF THE STATE
OF NEVADA,

 Respondent.

Case No. 2:18-cv-02077-KJD-VCF

ORDER

Petitioner has filed an amended petition (ECF No. 14). The court has reviewed it pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts. The court will direct respondents to file a response.

IT THEREFORE IS ORDERED that respondents shall file a response to the amended petition (ECF No. 14), including potentially by motion to dismiss, within forty-five (45) days from the date of entry of this order and that petitioner may file a reply within thirty (30) days of service of an answer. The response and reply time to any motion filed by either party, including a motion filed in lieu of a pleading, shall be governed instead by Local Rule LR 7-2(b).

IT FURTHER IS ORDERED that any procedural defenses raised by respondents to the counseled amended petition shall be raised together in a single consolidated motion to dismiss. In other words, the court does not wish to address any procedural defenses raised herein either in serial fashion in multiple successive motions to dismiss or embedded in the answer. Procedural

1 defenses omitted from such motion to dismiss will be subject to potential waiver. Respondents
2 shall not file a response in this case that consolidates their procedural defenses, if any, with their
3 response on the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims
4 clearly lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2):
5 (a) they shall do so within the single motion to dismiss not in the answer; and (b) they shall
6 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in
7 Cassett v. Stewart, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,
8 including exhaustion, shall be included with the merits in an answer. All procedural defenses,
9 including exhaustion, instead must be raised by motion to dismiss.

10 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
11 specifically cite to and address the applicable state court written decision and state court record
12 materials, if any, regarding each claim within the response as to that claim.

13 DATED: April 7, 2020



KENT J. DAWSON
United States District Judge